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Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

MICHAEL FIRESTONE and LINDSAY
BERSCHAUER, individually and as husband
and wife; KATERINA EYRE, an individual;
TAYLER HAYWARD, an individual; LISA
LEDSON, an individual, THOMAS REILLY,
an individual, and GERALD EARL
CUMMINGS, II, an individual,

Case No: 3:24-cv-01034-SI

**DECLARATION OF MICHAEL
FIRESTONE**

Plaintiffs,

v.

JANET YELLEN, in her official capacity as the
Secretary of the United States Department of the
Treasury, UNITED STATES DEPARTMENT
OF THE TREASURY, and ANDREA GACKI,
in her official capacity as Acting Director of the
Financial Crimes Enforcement Network,

Defendants.

Declaration of Michael Firestone

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I, Michael Firestone, make the following declaration under penalty of perjury pursuant to the laws of the United States:

1. I am over the age of 18, am under no legal disability, and am competent to testify. If called as a witness, I would and could testify competently to the facts set forth in this declaration based on my personal knowledge.

2. I am the organizer, registered agent and President of Firestone Ag Enterprises Co. I do not hold this corporation jointly with my spouse, Lindsay Berschauer, who is also a plaintiff in this litigation. I am also an organizer and member of Firestone Processing Co., LLC which I own jointly with my spouse. Within the meaning of the CTA, I am a considered a beneficial owner of these entities.

3. Firestone Ag Enterprises Co. is an Oregon corporation with operations wholly in the state of Oregon. Firestone Processing Co., LLC is an Oregon limited liability company with operations wholly in the state of Oregon. Both companies provide support and services to other small businesses and farmers in the Oregon agricultural industry sector.

4. Neither company is required to disclose the identities of its beneficial owners as a condition of registering to do business in Oregon.

5. As an entity registered in 2021 with the Oregon Secretary of State, Firestone Ag Enterprises Co. will be required to comply with the Corporate Transparency Act (“CTA”) and must file its beneficial ownership reports with the Financial Crimes Enforcement Network (“FinCEN”) no later than January 1, 2025.

6. As an entity registered in 2024 with the Oregon Secretary of State Firestone Processing Co., LLC is now overdue in the requirement for companies formed in 2024 to comply with the Corporate Transparency Act (“CTA”) and is now subject to any civil and criminal penalties the Financial Crimes Enforcement Network (“FinCEN”) chooses to enforce while this litigation is still pending to determine whether a CTA filing violates my constitutional rights.

7. As a small business owner who is afforded no exemption as other large corporate

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interests are in the law, I oppose the law as being vague and unduly burdensome. I also am opposed that I would have to submit beneficial ownership information for my spouse, who has no ownership stake in Firestone Ag Enterprises Co., and who has already been subject already to political retaliation for her support of this litigation. It is a violation of my right to marital privacy, and I object to the CTA on the basis that I should be compelled to file my wife as a beneficial owner on a business in which she is not a direct owner but could be construed as having substantial control under the law.

8. I object to the CTA on the grounds that my sensitive information will be used for law enforcement purposes where no probable cause or reasonable suspicion exists, in violation of my Fourth Amendment rights.

9. I object to the CTA on the grounds that my sensitive information in the form of my address, date of birth and photo identification (and any underlying documents used to generate that identification), and my associational relationships with my spouse, clients, and any others in my business enterprises, are not instrumentalities of commerce, and therefore, I believe Congress has overreached its authority by compelling me to give those items up to the government under threat of civil and criminal penalties, and in violation of my First Amendment rights.

10. I object to the CTA on the grounds that the law is vague with respect to its civil and criminal penalties, insomuch as whether such penalties will be assessed on a per person basis or on a per company basis. Depending on how the law is interpreted, the range of daily civil penalties I could be subject to is between \$500 and \$1,500 per day. The law is also vague in that it is unclear whether the criminal penalties of up to \$10,000 in fines and up to two years imprisonment can be interpreted to stack up on a per-entity basis, leaving someone with multiple entities like me who fails to comply open to a judicial interpretation that the criminal penalties should be applied on a per-entity basis. In my case, that could be up to \$30,000 and up to six years imprisonment.

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11. My companies have not filed any beneficial ownership reports with the Financial Crimes Enforcement Network, and I do not intend to disclose the identities of my companies' beneficial owners or those who could be classified as having substantial control (as defined by the CTA) absent a judicial declaration that it is required to comply with the CTA and its implementing regulations. This is because I object to the Act's restrictions on my First Amendment rights, and its invasion of my private papers and effects that have historically been protected by the Fourth Amendment. I further object on the basis that CTA, by design, would require me to be subject to unlimited civil penalties and the threat of imprisonment if I do not give over to the government information for which the government has no legal authority to compel from citizens for the law's stated purposes.

12. If forced to file reports with FinCEN, I would incur costs associated with compiling and reviewing records, including costs for legal services.

13. I urge for the repeal of the CTA to protect the associational privacy interests of my companies' beneficial owners and those with substantial control of my company, and to protect individual freedoms to which I am guaranteed by the Constitution of the United States.

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on 11/15/2024

Signed by:
Michael Firestone
200B27338C6D434...

Michael Firestone